

The Commission concluded that “interoffice transmission facilities” include both dedicated transport³²⁹ and shared transport.³³⁰ With respect to dedicated transport, an incumbent LEC is obligated to provide unbundled access to dedicated transmission facilities between LEC central offices or between such offices and those of competing carriers, including at a minimum, interoffice facilities between end offices and serving wire centers (SWCs), SWCs and interexchange carriers’ points of presence (POPs), tandem switches and SWCs, end offices or tandems of the incumbent LEC, and the wire centers of incumbent LECs and requesting carriers.³³¹

ILECs must provide all technically feasible transmission capabilities, such as DS1, DS3, and Optical Carrier levels (e.g., OC-3/12/48/96) that the competing provider could use to provide telecommunications service.³³² ILECs must not limit the facilities to which dedicated interoffice transport facilities are connected, provided such interconnection is technically feasible, nor to restrict the use of unbundled transport facilities.³³³ Additionally, to the extent technically feasible, ILECs have an obligation to provide requesting carriers with access to digital cross-connect system functionality in the same manner that incumbent LECs offer such capabilities to interexchange carriers that purchase transport services.³³⁴

In the *Local Competition Third Reconsideration Order*, the FCC clarified its rules pertaining to shared transport. The FCC concluded that an incumbent LEC has an obligation to provide shared transport in a way that enables the traffic of requesting carriers to be carried on the same transport facilities that an incumbent LEC uses for its own traffic.³³⁵ An ILEC must also provide shared transmission facilities between end office switches, between end office and tandem switches, and between tandem switches, in its network.³³⁶ ILECs must permit requesting carriers that purchase unbundled shared transport and unbundled switching to use the same routing table that is resident in the incumbent LEC’s switch.³³⁷ Finally, ILECs must permit requesting carriers to use shared (or dedicated) transport as an unbundled element to carry

³²⁹ The Commission defined dedicated transport as “incumbent LEC transmission facilities dedicated to a particular customer or carrier that provide telecommunications between wire centers owned by incumbent LECs or requesting telecommunications carriers, or between switches owned by incumbent LECs or requesting telecommunications carriers.” 47 C.F.R. § 51.319(d)(1)(i).

³³⁰ The Commission defined shared transport as “transmission facilities shared by more than one carrier, including the incumbent LEC, between end office switches, between end office switches and tandem switches, and between tandem switches, in the incumbent LEC’s network. 47 C.F.R. § 51.319(d)(1)(ii).

³³¹ *Local Competition First Report and Order*, 11 F.C.C.R. at 15718.

³³² *Id.*

³³³ *Id.*

³³⁴ *Id.* at 15719-20. 47 C.F.R. § 51.319(d)(2)(iv).

³³⁵ *Local Competition Third Reconsideration Order*, 12 F.C.C.R. at 12474.

³³⁶ *Id.* at 12475.

³³⁷ *Id.*

originating access traffic from, and terminating access traffic to, customers to whom the requesting carrier is also providing local exchange service.³³⁸

Section 271(c)(2)(B)(v) of the FTA requires SWBT to provide, on an unbundled basis, both dedicated and shared local transport from the trunk side of a wireline LEC switch. SWBT has demonstrated through provisions contained in the T2A that it is obligated to provide both shared and dedicated local transport to requesting telecommunications carriers, on an unbundled basis, from the trunk side of a wireline LEC switch. Additionally, SWBT has implemented performance measures that capture data showing SWBT is actually providing this element in a nondiscriminatory manner.

Common transport is defined as shared interoffice transmission path between SWBT switches.³³⁹ Common transport will permit CLECs to connect their Local Switching element with Common Transport to transport the local call dialed by the Local Switching element to its destination through the use of SWBT's common transport network.³⁴⁰ Common Transport will also permit CLECs to utilize SWBT's common network between a SWBT tandem and a SWBT end office.³⁴¹ SWBT is obligated to provide Common Transport between SWBT central office switches, between SWBT tandem switches, and between SWBT tandem switches and SWBT central office switches.³⁴² Also, SWBT provides the same routing tables to CLECs using shared transport that SWBT uses in its own retail operations.³⁴³

Dedicated Transport is an interoffice transmission path dedicated to a particular customer or carrier that provides telecommunications between wire centers owned by SWBT or CLEC or third parties acting on behalf of CLEC, or between switches owned by SWBT or CLEC or third parties acting on behalf of CLEC.³⁴⁴ When a CLEC collocates in SWBT central offices, and SWBT is not providing the connection between the SWBT central office and the CLEC premises (i.e., the entrance facility), the "Dedicated Transport, Entrance Facilities" rate element does not apply.³⁴⁵ When SWBT provides the transmission facility (i.e. the entrance facility) between the CLEC premises and the SWBT central office, the entrance facility rate element would apply for such entrance facility in addition to any interconnection arrangement to connect the entrance facility CLEC collocation space.³⁴⁶ In addition, SWBT is obligated under the T2A to provide CLECs with dark fiber as a form of unbundled interoffice transport.³⁴⁷

³³⁸ *Id.* at 12483.

³³⁹ T2A, Attach. 6, para. 8.1.1

³⁴⁰ *Id.*

³⁴¹ *Id.*

³⁴² *Auinbauh Aff.*, App. A-3, Tab 1, para. 84; *Deere Aff.*, App. A-2, Tab 3, para. 126.

³⁴³ *Id.*

³⁴⁴ T2A, Attach. 6, Sec. 8.2.1.

³⁴⁵ *Id.*

³⁴⁶ *Id.*

³⁴⁷ *Id.* at Sec. 14.6; *Deere Aff.*, App. A-2, Tab 3, para. 128.

The T2A obligates SWBT to provide dedicated transport in two additional ways beyond the scope of Commission standards. First, SWBT is obligated to provide dedicated transport to provide access services regardless of who serves the end-use customer.³⁴⁸ Second, SWBT must provide unbundled dedicated transport beyond areas where SWBT is the ILEC and has existing meet-point facilities used for interconnection with other ILECs.³⁴⁹ SWBT is obligated to provide Dedicated Transport at the following speeds: Voice Grade (VG) (analog), DS1 (1.544 Mbps), DS3 (45 Mbps), OC3 (155.520 Mbps), OC12 (622.080 Mbps), and OC48 (2488.320 Mbps).³⁵⁰ Additionally, a CLEC may request other interface options pursuant to the Special Request process.³⁵¹ SWBT is obligated to provide all technically feasible types of multiplexing/demultiplexing, including optical multiplexing on an unbundled basis.³⁵² A CLEC may purchase stand-alone multiplexing without also purchasing dedicated transport elements.³⁵³ SWBT also offers Digital Cross-Connect System (DCS) as part of the unbundled dedicated transport element with the same functionality that is offered to interexchange carriers, or additional functionality as the Parties may agree.³⁵⁴

These provisions of the T2A, coupled with commitments in SWBT's application affidavits, demonstrate that SWBT is legally obligated to provide local transport unbundled from switching. Further, SWBT has implemented performance measures that capture meaningful data showing actual compliance with checklist item 5.

PM-56 captures the percent of installations completed within "x" business days. PM-56 shows that for submeasures DS1 dedicated transport, circuits (1-10) and (11-20), and for DS3 dedicated transport, circuits (1-10) and (11-20), the data points were fewer than ten for August through November. Under the performance remedy plan, SWBT is required to pay high damages and high assessments under tier 2 for any substandard performance of this measure. Also, the performance remedy plan requires SWBT to pay damages even if data points are fewer than ten and the performance is non-compliant. Finally, SWBT has agreed to additional voluntary payments under Section 14.2 of the performance remedy plan.³⁵⁵

PM-58 measures the percent of SWBT caused due dates. For disaggregated measures analog trunk ports, subtending direct digital combination trunks, and DS3 dedicated transport the data points were fewer than ten, except for DS3 in September and October where SWBT was at or near parity compliance. The measure also is disaggregated for dark fiber. During the months of August, September, and October, SWBT delivered performance at or near parity on an

³⁴⁸ T2A, Attach. 6, Sec. 2.2; Auinbauh Aff., App. A-3, Tab 1, para. 102.

³⁴⁹ T2A, Attach. 6, Sec. 8.2.1.2.1; Auinbauh Aff., App. A-3, Tab 1, para. 101.

³⁵⁰ T2A, Attach. 6, Sec. 8.2.1.3; Deere Aff., App. A-2, Tab 3, para. 115.

³⁵¹ T2A, Attach. 6, Sec. 8.2.1.3.

³⁵² T2A, Attach. 6, Sec. 8.2.1.5.1; Deere Aff., App. A-2, Tab 3, para 117.

³⁵³ T2A, Attach. 6, Sec. 8.2.1.5.2.

³⁵⁴ T2A, Attach. 6, Sec. 8.2.4.1; *see generally* Deere Aff., App. A-2, Tab 3, paras. 118-127.

³⁵⁵ T2A, Attach. 17, Sec. 14.2.

aggregated basis. In November, the data points were fewer than ten. Although few data points exist, where appropriate numbers are present, SWBT has shown adequate performance.

PM-59 captures the percent of trouble reports occurring within 30 days of installation, known as the I30 report. This measure is disaggregated by geographic region and service category. For sub-measure, DS1 dedicated transport, in the month of October SWBT's performance was in compliance. For other months, August, September, and November, SWBT's reported data indicates that the volumes were fewer than ten data points. For analog trunk ports and subtending DDC trunks, the number of data points were fewer than ten August through November. For DS3 dedicated transport, SWBT performed better than parity for September and October, while August and November indicate fewer than ten data points. For the dark fiber sub category, the performance data shows compliance for the months of August through October. In November, volumes were fewer than ten.

PM-65 measures the number of network trouble reports within a calendar month per 100 UNEs and is disaggregated by region and service type. For DS1 dedicated transport, SWBT's performance was better than parity August through November. For sub-measure analog trunk ports, the reported data shows at or near parity performance August through November. For the sub-measure subtending DDC trunks, SWBT was compliant in all four months. For DS3 dedicated transport, SWBT's performance was better than parity August through November. Finally, for the dark fiber sub-measure SWBT was compliant for all four months.

SWBT has a legal obligation under the T2A to provide local transport unbundled from switching or other services. In addition, SWBT has shown through data from performance measures and commitments contained in supporting affidavits actual compliance with checklist item 5. Therefore, the Texas Commission verifies that SWBT has satisfied the requirements of Section 271(c)(2)(B)(v).

F. Checklist Item Six – Unbundled Local Switching

Does the access and interconnection provided by SWBT include local switching unbundled from transport, local loop transmission, or other services in accordance with the requirements of FTA section 271(c)(2)(B)(vi) and applicable rules promulgated by the Commission?

The Texas Commission finds that SWBT has satisfied the requirements of checklist item 6. SWBT provides local switching as an unbundled network element.³⁵⁶

The FCC defined local switching to encompass line-side and trunk-side facilities, plus the features, functions, and capabilities of the switch.³⁵⁷ The features, functions and capabilities of the switch include the basic switching function as well as the same basic capabilities that are

³⁵⁶ *Local Competition First Report and Order*, 11 F.C.C.R. at 15705.

³⁵⁷ *Id.* at 15706.

available to the incumbent LEC's customers.³⁵⁸ Additionally, local switching includes all vertical features that the switch is capable of providing, as well as any technically feasible customized routing functions.³⁵⁹ Further, the Commission concluded that incumbent LECs must permit competing carriers to purchase unbundled network elements, including unbundled local switching, in a manner that permits a competing carrier to offer, and bill for, exchange access and the termination of local traffic.³⁶⁰ In the *Ameritech Michigan Order*, the Commission concluded that measuring daily customer usage for billing purposes requires essentially the same OSS functions for both competing carriers and incumbent LECs, and therefore a Bell Operating Company must demonstrate that it is providing equivalent access to billing information.³⁶¹ Thus, the ability of a BOC to provide billing information necessary for a competitive LEC to bill for exchange access and termination of local traffic is an aspect of unbundled local switching.

In *Ameritech Michigan*, the Commission concluded that, to comply with this checklist item, a BOC must also make available trunk ports on a shared basis, and routing tables resident in the BOC's switch, as necessary to provide access to shared transport functionality.³⁶² The FCC clarified that an incumbent LEC may not limit the ability of competitors to use unbundled local switching to provide exchange access by requiring competing carriers to purchase a dedicated trunk from an interexchange carrier's point of presence to a dedicated trunk port on the local switch.³⁶³

Section 271(c)(2)(B)(vi) of the FTA requires SWBT to provide local switching unbundled from transport, local loop transmission or other services. SWBT has demonstrated that it meets this requirement. Specifically, the T2A memorializes SWBT's obligation to provide local switching unbundled from other services. SWBT provides CLECs with access to the local switching element, which encompasses line-side and trunk-side facilities plus the features, functions and capabilities of the switch.³⁶⁴ As defined in the T2A, it also includes the same basic capabilities that are available to SWBT customers, such as a telephone number, dial tone, signaling and access to 911, operator services, directory assistance, and features and functions necessary to provide services required by law.³⁶⁵

The local switching element includes line class codes that reside in the SWBT local switch that provide and identify the calling scope or multiple calling scopes of a local subscriber.³⁶⁶ One-way extended area line class codes, as part of the local switching element,

³⁵⁸ *Id.*

³⁵⁹ *Id.*

³⁶⁰ *Id.* at 15682, fn. 772.

³⁶¹ *Ameritech Michigan*, 12 F.C.C.R. 20543, 20619, 20717-18 (1997) (hereinafter "*Ameritech Michigan*").

³⁶² *Ameritech Michigan*, 12 F.C.C.R. at 20705; *see also Local Competition Third Reconsideration Order*, 12 F.C.C.R. at 12475-79.

³⁶³ *Ameritech Michigan*, 12 F.C.C.R. at 20714-15.

³⁶⁴ T2A, Attach. 6, Sec. 5.1; *Deere Aff.*, App. A-2, Tab 3, paras. 129-132; *see also Auinbauh Aff.*, App. A-3, Tab 1, para. 105.

³⁶⁵ *Id.*

³⁶⁶ *Id.*

may be combined with unbundled local loops in order to provide subscriber services on a local and/or one-way expanded local basis similar to what SWBT provides to its customers.³⁶⁷ The local switching element includes all vertical features that the switch is capable of providing, including custom calling, CLASS features, and Centrex-like capabilities as well as any technically feasible customized routing, blocking/screening, and recording functions.³⁶⁸ SWBT is also obligated to provide CLECs with recordings that will permit it to collect all access or toll revenues associated with the use of the local switching element.³⁶⁹

Additionally, SWBT is obligated to provide the following switch ports: analog line port,³⁷⁰ analog (DID) trunk port,³⁷¹ DS1 trunk port,³⁷² ISDN Basic Rate Interface (BRI) port,³⁷³ ISDN Primary Rate Interface (PRI) port,³⁷⁴ Input/Output (I/O) port.³⁷⁵ SWBT is obligated to provide CLEC the AIN solution for customized routing in each of its end offices.³⁷⁶ SWBT is also obligated to provide Customized Routing via LCC technology at the request of CLEC.³⁷⁷ For particular customer service arrangements in which Customized Routing is not available through AIN, if CLEC requests Customized Routing of OS/DA calls by the Line Class Code method (LCC), CLEC will pay rates that will be established.³⁷⁸

These provisions of Attachment 6 to the T2A demonstrate that SWBT is obligated to comply with the requirements of checklist item No. 6. In addition to its legal obligation to provide unbundled switching, SWBT has implemented performance measures for switching functions. These measures show SWBT is actually providing unbundled switching in accordance with Commission requirements.

Commercial Performance

PM-58 measures the percent of SWBT missed due dates, disaggregated for ISDN-BRI and ISDN-PRI switch ports. The number of data points for ISDN-BRI for the months of August through November is fewer than ten. For ISDN-PRI, SWBT provided better than parity performance in October and November. August and September showed fewer than ten data points.

³⁶⁷ *Id.*

³⁶⁸ *Id.*

³⁶⁹ T2A, Attach. 6, Sec. 5.1.1; Auinbauh Aff., App. A-3, Tab 1, paras. 107-109.

³⁷⁰ T2A, Attach. 6, Sec. 5.3.1.1; Auinbauh Aff., App. A-3, Tab 1, para. 140.

³⁷¹ T2A, Attach. 6, Sec. 5.3.1.2; Auinbauh Aff., App. A-3, Tab 1, para. 140.

³⁷² T2A, Attach. 6, Sec. 5.3.1.3; Auinbauh Aff., App. A-3, Tab 1, para. 140.

³⁷³ T2A, Attach. 6, Sec. 5.3.1.4; Auinbauh Aff., App. A-3, Tab 1, para. 140.

³⁷⁴ T2A, Attach. 6, Sec. 5.3.1.5; Auinbauh Aff., App. A-3, Tab 1, para. 140.

³⁷⁵ T2A, Attach. 6, Sec. 5.3.1.6; Auinbauh Aff., App. A-3, Tab 1, para. 140.

³⁷⁶ T2A, Attach. 6, Sec. 5.2.4.2.

³⁷⁷ *Id.* at Sec. 5.2.4.3.

³⁷⁸ *Id.* at Sec. 5.2.3.4.

PM-59 captures the percent of trouble reports reported within 30 days. This measure is disaggregated by ISDN-BRI and ISDN-PRI switch ports. For ISDN-BRI the data points were fewer than ten. For ISDN-PRI, SWBT's performance was compliant in October and November, with fewer than ten data points in August and September.

SWBT has a legal obligation under the T2A to provide unbundled switching. Through performance measure data and supporting affidavits, SWBT has shown that it is actually providing such access. Therefore, the Texas Commission verifies that SWBT has met the requirements of Section 271(c)(2)(B)(vi).

G. Checklist Item Seven – 911 and E911, Directory Assistance, Operator Services

Has SWBT provided nondiscriminatory access to the following, pursuant to section 271(c)(2)(B)(vii) and applicable rules promulgated by the Commission: (a) 911 and E911 services; (b) directory assistance services to allow the other telecommunications carrier's customers to obtain telephone numbers; and, (c) operator call completion services?

The Texas Commission finds that SWBT has satisfied the requirements of checklist item 7. Through the T2A and performance measures, SWBT has demonstrated that it provides nondiscriminatory access to 911 and E911 services, directory assistance and operator call completion services at parity with the access available to SWBT. SWBT has also demonstrated that it provides nondiscriminatory access to directory assistance and operator call completion services between and among CLECs.

The T2A obligates SWBT to provide and maintain equipment at the E911 Control Office and the Database Management System (DBMS) as is necessary to perform the E911 services set forth in Attachment 15: E911 – Texas.³⁷⁹ SWBT maintains dedicated 911 circuits according to CLEC specifications.³⁸⁰ SWBT must also provide CLEC an electronic compare file that will contain the subscriber information stored in the SWBT 9-1-1 database for end-user customers served by CLEC through UNE switch ports.³⁸¹

SWBT provides CLECs and its own retail customers parity access to 911 service.³⁸² SWBT provides CLECs with documentation needed to operate the E911 system and download and maintain their own end-user records.³⁸³ Additionally, SWBT uses the same personnel and

³⁷⁹ T2A, Attach. 15, Sec. 2.1.

³⁸⁰ Deere Aff., App. A-2, Tab 3, para. 186.

³⁸¹ T2A, Attach. 7, Sec. 1.9 (Should CLEC wish to obtain the 911 compare file more frequently than once per quarter, terms and conditions for such additional access will be mutually agreed by the parties.)

³⁸² Deere Aff., App. A-2, Tab 3, para. 184.

³⁸³ Deere Aff., App. A-2, Tab 3, para. 188.

the same procedures to detect errors, regardless of the customer.³⁸⁴ In fact, SWBT will make simple corrections to CLEC customer errors, as long as a service order does not need issuing or a customer need not be contacted.³⁸⁵

In addition, the T2A requires SWBT to offer call branding of directory assistance and operator services in the name of the CLEC.³⁸⁶ SWBT allows CLECs to elect to either route their customers' DA calls themselves or have SWBT provide the service.³⁸⁷ CLECs that choose to provide their own DA services can access SWBT's DA database on a nondiscriminatory basis and obtain the same information that SWBT's retail DA operators use.³⁸⁸ SWBT provides all listing information to CLECs and also has reciprocal licensing agreements by which CLECs and SWBT exchange listing information on a bulk basis.³⁸⁹

In all cases, the rates quoted to the customer and those applied to the call will be CLEC's rates.³⁹⁰ SWBT will provide CLEC access to Validation information whenever CLEC initiates a query from an SSP for Validation information available in SWBT's LIDB.³⁹¹ LIDB Validation provided by SWBT to CLEC will meet applicable regulatory performance standards and requirements and be at least equal in quality and performance as that which SWBT provides to itself.³⁹²

For LVAS, the T2A provides:

SWBT's Line Validation Administration System (LVAS) provides CLEC with the capability to access, create, modify, or update information in LIDB. If not claimed by CLEC, a LIDB record may be considered abandoned by SWBT and deleted from the LIDB database. However, a LIDB record shall not be considered abandoned for at least 21 days beyond the date that SWBT sends a Service Order Completion (SOC) to CLEC to indicate that a service order has been completed.³⁹³

For UNE-P orders:

³⁸⁴ Deere Aff., App. A-2, Tab 3, paras. 196-197; Dysart Aff., App. A-5, Tab 1, paras. 606-607.

³⁸⁵ *Id.*

³⁸⁶ Affidavit of Jan D. Rogers, Application of Southwestern Bell Telephone Company, App. A-2, Tab 6, para. 5 (Jan. 10, 2000) (hereinafter "Rogers Aff.")

³⁸⁷ *Id.* at para. 4-7.

³⁸⁸ *Id.* at para. 27.

³⁸⁹ *Id.* at para. 28.

³⁹⁰ T2A, Attach. 1, App. DA – Resale – TX, Sec. 3.1; T2A, Attach. 1, App. OS – Resale – TX, Sec. 9.0.

³⁹¹ T2A, Attach. 6., Sec. 9.4.2.1.

³⁹² *Id.* at Sec. 9.4.2.7.

³⁹³ *Id.* at Sec. 9.4.4.3.1.

SWBT shall work within the change management process to develop functionality that will enable it to populate the LIDB database based on information provided by CLEC through the initial LSR establishing a new connect or migration of CLEC's end user customer. SWBT shall provide these enhancements to CLEC for testing on or before December 15, 1999, with implementation scheduled for mid-January, 2000.³⁹⁴

SWBT has indicated that two Change Management meetings have been conducted to address the functionality and timing of deployment of the new functionalities.³⁹⁵ The conversion and new connect activity was put in place for testing on December 15, 1999.³⁹⁶ Implementation is scheduled for January 15, 2000.³⁹⁷ Although Change Management will address timing and implementation issues, SWBT expects deployment of on-going administration of the LIDB record through the LSR process for UNE-P orders to be completed by the end of 2000.³⁹⁸ SWBT believes that this added functionality on top of its already compliant LIDB offering, exceeds the requirements of the FTA.³⁹⁹

SWBT has also established a forum for all users of the LIDB administration system to discuss issues as they arise.⁴⁰⁰ SWBT has also implemented updates regarding UNE switching and the deletion of LIDB records.⁴⁰¹ SWBT will provide nondiscriminatory access to SWBT's Directory Assistance listing information which includes published listings, non-published listings as well as listed names, address, zip code and telephone numbers with the exception of nonpublished telephone numbers.⁴⁰² SWBT and CLEC agree to exchange with each other all published subscriber listings within their respective directory assistance databases regardless of the underlying carrier.⁴⁰³ SWBT is in fact obligated to provide access to DA services and OS on

³⁹⁴ *Id.* at Sec. 9.4.4.3.2. (For on-going administration of the LIDB record via LSR, SWBT will work within the change management process to mechanize its LIDB administration offering by December 31, 2000); *See also* Rogers Aff., App. A-2, Tab 6, para. 69. "Although the access currently provided by SWBT to both LIDB (for call completion purposes) and LVAS (for the creation, update and modification of LIDB records) fully satisfies the requirements of the Act and relevant FCC orders, SWBT nonetheless has agreed to work within the Change Management Process to develop and implement additional functionality that will enable it to populate the LIDB database based on information provided by CLEC through the initial LSR establishing a new connect or migration of CLEC's end user customer."

³⁹⁵ Rogers Aff., App. A-2, Tab 6, para. 70.

³⁹⁶ *Id.*

³⁹⁷ *Id.*

³⁹⁸ *Id.*

³⁹⁹ *Id.* at para. 71.

⁴⁰⁰ T2A, Attach. 6, Sec. 9.4.4.3.5.

⁴⁰¹ T2A, Attach. 7, Sec. 1.7.1.1, 5.8. "When CLEC uses UNE switching, SWBT will not delete the associated LIDB database information (except as outlined in Attachment 6, para. 9.4.4.3.1) or Directory Listings database information unless requested by CLEC. SWBT will use a mechanized process to ensure that SWBT's directory listing, 911, and LIDB information for the end-user is not deleted during the process of converting that customer from service provided by SWBT to service provided by a CLEC."

⁴⁰² T2A, Attach. 18, Sec. 9.8.1.

⁴⁰³ *Id.* at Sec. 2.1.

an unbundled basis at UNE prices to business customers for two years and to residential customers for three years.⁴⁰⁴ This is beyond the Commission's requirements, as the Commission severed DA services from the unbundling obligations of 271 in the *UNE Remand Order*. Furthermore, SWBT's systems process OS calls in the order received without regard to whether the call originated from a SWBT customer or CLEC customer.⁴⁰⁵ This assures parity treatment and the same answer performance for all parties.

Regarding compensation, the Parties will compensate each other for the exchange of directory assistance subscriber listing information at a price of \$.0585 per listing for the initial load, and \$.0585 per listing for each update listing (each addition, deletion, or change to the directory assistance database furnished by one Party to the other constitutes an update listing).⁴⁰⁶ In the alternative, CLEC may elect to obtain listings at a bulk rate under the terms of SWBT's Directory Assistance Listing Service Tariff.⁴⁰⁷

Furthermore, SWBT's systems for providing database and 911 services were tested by Telcordia as part of its OSS testing.⁴⁰⁸ SWBT provides access to electronic 911 compare files to CLECs where SWBT is the ALI provider.⁴⁰⁹ This offering allows the CLEC providing service via resale and/or SWBT unbundled switch ports to electronically compare the subscriber information stored in SWBT's 911 database customers with the CLECs internal records to assure accuracy.⁴¹⁰ Telcordia concluded that there is consistency between LSR data information and the E911 data files, and that the 911 compare files were received within the standard 14-day time interval.⁴¹¹

Commercial Performance

In addition to the requirements in the T2A and testing, the Commission has established performance measures that capture SWBT's performance for 911, directory assistance, and operator call completion. PM-102 captures the average time to clear errors, PM-103 captures the percent accuracy for updates of the 911 database, and PM-104 captures the average time to update the 911 database. These are tier 1 measures. PM-103 and 104 show that SWBT is in parity for August through October. There is no data for PM-102, as it will be implemented by April 2000.⁴¹²

⁴⁰⁴ T2A, Attach. 6, Sec. 14.3.1, 14.4.1.

⁴⁰⁵ Rogers Aff., App. A-2, Tab 6, paras. 38-39.

⁴⁰⁶ T2A, Attach. 6, Sec. 8.1.

⁴⁰⁷ *Id.* at Sec. 8.3.

⁴⁰⁸ See Final SWBT OSS Readiness Report, pp. 80-81.

⁴⁰⁹ *Id.*

⁴¹⁰ *Id.*

⁴¹¹ *Id.*

⁴¹² Dysart Aff., App. A-2, Tab 1, para. 616.

In addition, PM-110 captures the percent of updates completed into the DA database within 72 hours, PM-111 captures the average update interval for the DA database for facilities based CLECs, and PM-112 captures the percent accuracy for all manual updates. The reported data indicates that SWBT is in compliance for August through October for these measures. Additionally, PM-113 has been established to capture the percent of electronic updates that flow through. Because this measure was completed in November 1999, data will first be available in January.⁴¹³ One other DA measure, (PM-80), captures the average speed of answer for DA. SWBT has complied with this measure for all regions, for August through October. PM-82 measures Operator Services speed of answer. This measure is disaggregated into four regions and the data indicates that SWBT was compliant for August through October in all regions.

SWBT has a legal obligation under the T2A to provide nondiscriminatory access to 911 and E911 services; directory assistance services; and operator call completion services. Through implementation of the associated performance measures and commitments in its application affidavits, SWBT has shown it is actually providing nondiscriminatory access. Therefore, the Texas Commission verifies that SWBT is in compliance with the requirements of Section 271(c)(2)(B)(vii).

H. Checklist Item Eight – White Pages Directory Listings

Does SWBT provide White Pages directory listings for customers of the other telecommunications carrier's telephone exchange service pursuant to section 271(c)(2)(B)(viii) of the FTA and applicable rules of the Commission?

The Texas Commission finds that SWBT has satisfied the requirements of checklist item 8.

In its Second Louisiana Decision, the Commission affirmed that Section 251(b)(3) of the FTA obligates a LEC to provide nondiscriminatory access to directory listings just as Section 271(c)(2)(B)(viii) of the FTA obligates a Bell Operating Company (BOC) to provide nondiscriminatory access to White Pages directory listings.⁴¹⁴

To comply with checklist item 8, the Commission determined that a BOC must provide customers of competing LECs with White Pages listings that are nondiscriminatory in appearance and integration.⁴¹⁵ A BOC must demonstrate that it provides White Pages directory listings for a CLEC with the same accuracy and reliability that it provides White Pages directory listings to its own customers. Further, a BOC must have procedures in place that will minimize the potential for errors in the listings of CLECs.⁴¹⁶ Such procedures are intended to provide

⁴¹³ *Id.* at para. 649. (Data for the month of December is expected to be available.)

⁴¹⁴ *BellSouth Louisiana II*, 13 F.C.C.R. at 20747.

⁴¹⁵ *Id.*

⁴¹⁶ *Id.* at 20749.

CLECs with a reasonable opportunity to verify the accuracy of listings included in White Pages directories.⁴¹⁷

Section 271(c)(2)(B)(viii) of the FTA requires SWBT to provide access to White Pages directory listings that is nondiscriminatory not only between SWBT and CLECs but also between and among CLECs, including resellers, UNE-based CLECs and facilities-based CLECs. SWBT demonstrated that it provides nondiscriminatory access to White Pages directory listings. SWBT memorialized its commitments pertaining to checklist item 8, primarily in the Texas 271 Agreement (T2A).

Under the T2A, SWBT is obligated to make available to CLEC, for CLEC customers, non-discriminatory access to White Pages directory listings.⁴¹⁸ SWBT is obligated to provide daily electronic directory listing verification reports to CLEC upon request.⁴¹⁹ This report can be used to verify CLEC subscriber White Page and Directory Assistance listing information.⁴²⁰ This daily electronic verification report will be produced by SWBT's ALPSS/LIRA system and will include Directory Delivery Address (DDA) information for each CLEC end user listing.⁴²¹ In addition, at least sixty (60) days prior to the business office close date for a particular directory, SWBT is obligated to provide to CLECs, upon request, an electronic verification list of CLEC's subscriber listings, containing the listing information that will appear in the directory.⁴²²

In addition, SWBT will accept standing requests for electronic verification lists on those White Pages directories specified by CLEC.⁴²³ SWBT is also required to deliver White Pages to CLEC's end user customers as part of SWBT's mass annual delivery.⁴²⁴ Furthermore, a CLEC may place its own "tip-ons" (advertisements adhered to directories) on any directory ordered by the CLEC.⁴²⁵ In conclusion, SWBT provides the directory-listing formats in the same manner for SWBT and CLEC end-users, meeting the requirement that the listings are nondiscriminatory in appearance and integration.⁴²⁶

In addition to complying with its legal obligations in the T2A, SWBT's performance was tested by Telcordia. SWBT's Advanced Listing Products and Services System/Listing Information Real-time Access (ALPSS/LIRA) was analyzed during Telcordia's evaluation of

⁴¹⁷ *Id.*

⁴¹⁸ T2A, Attach. 19, Sec. 1.3.

⁴¹⁹ Rogers Aff., App. A-2, Tab 6, paras. 55-56.

⁴²⁰ *Id.*

⁴²¹ T2A, Attach. 19, Sec. 2.5.

⁴²² *Id.* at Sec. 2.5.1.

⁴²³ *Id.*

⁴²⁴ *Id.* at Sec. 2.7.

⁴²⁵ *Id.*

⁴²⁶ Rogers Aff., App. A-2, Tab 6, para. 51; *See BellSouth Louisiana II*, 13 F.C.C.R. at 20749-50; *See Bell Atlantic New York*, FCC 99-404, para. 360.

SWBT's OSS processes. In this portion of the OSS test, Telcordia compared the database information to that of a CLEC's LSRs to evaluate the database for accuracy and completeness.⁴²⁷ In the initial test, the database had a 97% accuracy rate with only one error reported.⁴²⁸ During the retest, Telcordia reported a 100% accuracy rate.⁴²⁹ The test results affirm the Texas Commission's belief that SWBT's systems are satisfactory.

SWBT has demonstrated that it is legally obligated to provide White Pages directory listings for customers of the other telecommunications carrier's telephone exchange service pursuant to section 271(c)(2)(B)(viii). In addition, through affidavits and the results of third party testing, SWBT has shown that it is actually providing nondiscriminatory access to White Pages directory listings. Therefore, the Texas Commission verifies that SWBT meets the requirements of section 271(c)(2)(B)(viii).

I. Checklist Item Nine – Numbering Administration

Until the date by which telecommunications numbering administration guidelines, plan, or rules were established, did SWBT provide nondiscriminatory access to telephone numbers for assignment to other telecommunications carrier's telephone exchange service customers pursuant to § 271(c)(2)(B)(ix) of the FTA and applicable FCC rules?

The Texas Commission finds that SWBT has satisfied the requirements of checklist item 9.

FTA section 271(c)(2)(B)(ix) requires a BOC to provide "nondiscriminatory access to telephone numbers" for assignment to competing carriers' telephone exchange service customers, until the date by which "telecommunications numbering guidelines, plan, or rules are established."⁴³⁰ The FCC determined that the phrase "nondiscriminatory access to telephone numbers" requires a LEC providing telephone numbers to permit competing providers access to these numbers that is identical to the access that the LEC provides to itself.⁴³¹ In assessing a BOC's compliance with checklist item 9, the FCC "will look specifically at the circumstances and business practices governing CO [Central Office] code administration in each applicant's state."⁴³² After the date by which numbering administration guidelines, plan, or rules are established, a BOC is required to comply with such guidelines, plan or rules.⁴³³

⁴²⁷ Final SWBT OSS Readiness Report § 4.5.2.

⁴²⁸ *Id.*

⁴²⁹ *Id.*

⁴³⁰ 47 U.S.C. § 271(c)(2)(B)(ix).

⁴³¹ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, *Local Competition Second Report and Order*, 11 F.C.C.R. 19392, 19446-47 (1996) (hereinafter "*Local Competition Second Report and Order*").

⁴³² *Id.* at 19542. The FCC, in implementing FTA section 251(b)(3), required that an incumbent LEC comply with these rules: (1) it must charge one uniform fee to all carriers, including itself, for the assignment of CO codes, 47 C.F.R. § 52.15(c)(1); (2) it must not assess unjust, discriminatory, or unreasonable charges for activating CO codes

Lockheed Martin assumed the role of CO code administrator for the areas served by SWBT in Texas February 1, 1999.⁴³⁴ Prior to Lockheed Martin's assumption, SWBT met the requirements of checklist item 9.⁴³⁵ However, since Lockheed Martin assumed the role of CO code administrator for SWBT early in 1999, SWBT's burden of proof under section 271(c)(2)(B)(ix) is different now than when its March, 1998 Notice of Intent was filed. SWBT must now demonstrate that it adheres to the current standards, i.e., the industry's CO administration guidelines and FCC rules.

The T2A provides a reasonable framework for SWBT and the CLECs to operate under with respect to number administration.⁴³⁶ The T2A provides that nothing relating to numbering will be construed to limit either SWBT or the CLEC's right to employ or to request and be assigned any NANP numbers, including central office (NXX) codes, pursuant to the Assignment Guidelines, or to establish, by tariff or otherwise, Exchanges and Rating Points corresponding to those NXX codes.⁴³⁷ Additionally, each party is responsible for administering the NXX codes assigned to it.⁴³⁸ The T2A also provides that it will be the responsibility of each party to program and update its own switches and network systems to recognize and route traffic to the other party's assigned NXX codes and neither party will impose fees or charges on the other party for such required programming and updating activities.⁴³⁹ Finally, the T2A states that it will be the responsibility of each party to input required data into the Routing Data Base Systems (RDBS) and into the Bellcore Rating Administrative Data Systems (BRADS) or other appropriate system(s) necessary to update the Local Exchange Routing Guide (LERG), unless negotiated otherwise.⁴⁴⁰

on any carrier or group of carriers, *Local Competition Second Report and Order*, 11 FCC Rcd at 19538; and (3) it must apply identical standards and procedures for processing all numbering requests, regardless of the party making the request. 47 C.F.R. § 52.15(c)(2).

⁴³³ 47 U.S.C. § 271(c)(2)(B)(ix). In *BellSouth Louisiana II*, the FCC noted that Lockheed Martin assumed the CO code administration responsibilities in BellSouth's territory as of August 14, 1998 -- after BellSouth filed its application at the FCC. *BellSouth Louisiana II*, 13 F.C.C.R. at 20751-52, para. 265. The FCC noted to BellSouth that in any future application, BellSouth must demonstrate that it adheres to the industry's CO administration guidelines and FCC rules, including those rules requiring accurate reporting of data to the CO administrator. *Id.* at 20752, para. 265.

⁴³⁴ Since February 1, 1999, SWBT has not performed any function relating to number administration or assignment. Affidavit of William T. Adair, Application of Southwestern Bell Telephone Company, App. A-2, Tab 1, at para. 18 (hereinafter "Adair Aff."). On or about December 1, 1999, Lockheed Martin IMS (NANPA) was renamed NeuStar, Inc. (NANPA).

⁴³⁵ Order No. 25; Adair Aff., App. A-2, Tab 1, paras. 10, 12.

⁴³⁶ T2A, Attachment 21.

⁴³⁷ *Id.* at Sec. 1.1.

⁴³⁸ *Id.*

⁴³⁹ *Id.* at Sec. 1.4.

⁴⁴⁰ *Id.* at Sec. 1.5.

PM-117 captures the percent of NXXs loaded and tested prior to the LERG effective date.⁴⁴¹ The benchmark for PM-117 is parity with SWBT's retail operations.⁴⁴² PM-117 is disaggregated by geographic regions: Central/West Texas, South Texas, Houston and Dallas-Ft. Worth.⁴⁴³ To date however, the number of transactions for all regions for all months was less than ten, thereby prohibiting analysis.⁴⁴⁴

Although performance data is unavailable at this time, the Texas Commission agrees with SWBT that SWBT has supported and continues to support, and adhere to the number administration rules, regulations and guidelines established by the various regulatory agencies and industry groups.⁴⁴⁵ Therefore, the Texas Commission verifies that SWBT meets the requirements of checklist item 9.

J. Checklist Item Ten – Databases and Associated Signaling

Has SWBT provided nondiscriminatory access to databases and associated signaling necessary for call routing and completion pursuant to FTA section 271(c)(2)(B)(x) and applicable FCC rules?

The Texas Commission concludes that SWBT satisfies the requirements of checklist item 10.

Section 271(c)(2)(B)(x) of the competitive checklist requires SWBT to offer “[n]ondiscriminatory access to databases and associated signaling necessary for call routing and completion.”⁴⁴⁶ In the *Local Competition First Report and Order*, the FCC identified signaling networks and call-related databases as network elements⁴⁴⁷ and concluded that LECs must provide the exchange of signaling information between LECs necessary to exchange traffic and to access call related databases.⁴⁴⁸

⁴⁴¹ T2A, Attach. 17, App. II, Sec. 134.

⁴⁴² *Id.*

⁴⁴³ *Id.*; Dysart Aff., App. A-5, Tab 1, Attach. B, paras. 572-75.

⁴⁴⁴ *Id.*

⁴⁴⁵ Adair Aff., App. A-2, Tab 1, para. 18.

⁴⁴⁶ 47 U.S.C. § 271(c)(2)(B)(x).

⁴⁴⁷ A network element as defined by the 1996 Act includes “databases” and in particular “databases sufficient for billing and collection or used in the transmission, routing, or other provision of a telecommunications service.” 47 U.S.C. § 153(29). The FCC interpreted this definition to mean that Congress intended the unbundling of databases to be read broadly and could include databases beyond those directly used in the transmission or routing of a telecommunications service. *Local Competition First Report and Order*, 11 F.C.C.R. at 15738, 15741, 15750.

⁴⁴⁸ Call-related databases are those SS7 databases used for billing and collection or used in the transmission, routing, or other provision of a telecommunications service. *Id.* at 15741, n.1126.

Several provisions in the Texas 271 Agreement (T2A) demonstrate that SWBT has a legal obligation to provide nondiscriminatory access to these databases.⁴⁴⁹ SWBT has agreed to provide nondiscriminatory access to databases and associated signaling including Signaling Networks and Call Related Databases.⁴⁵⁰ Further, SWBT has agreed that CLECs may use the Signaling Transfer Point (STP) under three options: (1) Signaling for CLEC with its own Signaling Point, utilizing its own set of links;⁴⁵¹ (2) Signaling for CLEC with its own Signaling Point, utilizing a set of links of another party;⁴⁵² and (3) Signaling for CLEC utilizing SWBT's Local Switching Unbundled Network Element (UNE).⁴⁵³ Additionally, the STPs will provide signaling connectivity to Network Elements connected to the SWBT SS7 network.⁴⁵⁴

SWBT has agreed to make its database functionality available to the CLECs using the same performance criteria applied to its use.⁴⁵⁵ SWBT will provide the CLECs unbundled access to validation information contained in its Line Information Database ("LIDB") whenever a CLEC initiates a query.⁴⁵⁶ Also via the LIDB, the CLECs may utilize the Calling Name Delivery ("CNAM") Query Service to query SWBT's Calling Name database for Calling Name information to deliver to the CLECs' local subscribers on Caller ID.⁴⁵⁷ The CLECs may access the LIDB through its Service Management System, known as the Line Validation Administrative System ("LVAS") where both SWBT and the CLECs create, modify and update account information.⁴⁵⁸ Finally, access to the Toll Free Calling Database allows the CLECs to access SWBT's 800 database for switch query and database response.⁴⁵⁹

SWBT agreed to provide the CLECs with access to its Service Creation Environment (SCE) to design, create, test and deploy AIN-based features, equivalent to the access it provides to itself.⁴⁶⁰ Also, SWBT agreed to provide access in a nondiscriminatory and competitively neutral manner to AIN Call Related databases, as well as access to SWBT's Directory Assistance listing information which includes published listings, non-listed listings, and listed names, addresses, zip codes and telephone numbers with the exception of nonpublished numbers.⁴⁶¹

Commercial Performance

⁴⁴⁹ T2A, Attachment 6.

⁴⁵⁰ *Id.* at Sec. 9.0.

⁴⁵¹ *Id.* at Sec. 9.2.1.1.1.

⁴⁵² *Id.* at Sec. 9.2.1.1.2.

⁴⁵³ *Id.* at Sec. 9.2.1.1.3; Deere Aff., App. A-2, Tab 3, para. 190.

⁴⁵⁴ T2A, Attach. 6 at Sec. 9.2.2.1; Deere Aff., App. A-2, Tab 3, para. 193.

⁴⁵⁵ T2A, Attach. 6 at Sec. 9.3.2.3.

⁴⁵⁶ T2A, Attach. 6 at Sec 9.4.2.1; Rogers Aff., App. A-2, Tab 6, para. 61.

⁴⁵⁷ T2A, Attach. 6 at Sec. 9.5.1.2; Rogers Aff., App. A -2, Tab 6, para. 63.

⁴⁵⁸ T2A, Attach. 6 at Sec. 9.4.4.3.1; Rogers Aff., App. A -2, Tab 6, paras. 58, 65-66.

⁴⁵⁹ T2A, Attach. 6 at Sec. 9.6.3; Deere Aff., App. A-2, Tab 3, para. 201.

⁴⁶⁰ T2A, Attach. 6 at Sec. 9.7.2; Deere Aff., App. A-2, Tab 3, para. 210.

⁴⁶¹ T2A, Attach. 6 at Sec. 9.7.5, 9.8.1; Deere Aff., App. A-2, Tab 3, paras. 213-17.

PM-78 measures the average time from receipt of a complete and accurate ASR until the completion of the trunk order.⁴⁶² PM-78 is disaggregated into four levels, one submeasure to capture the average trunk installation interval for SS7 links.⁴⁶³ The performance data for the months of August, September and October reflects less than ten transactions in all geographic regions.⁴⁶⁴ Therefore, analysis is prohibited.

PM-122 captures LIDB database update activity for manually processed requests until mechanization is implemented. The Performance Remedy Plan provides for damages if the performance delivered under PM122 exceeds the benchmark of 95% within 24 hours for 1 – 200 TNs or within 48 hours for > 200 TNs. To date, SWBT has provided parity access to its LIDB and signaling database on an unbundled basis. Therefore, the Texas Commission verifies that SWBT meets the requirements of 271(c)(2)(B)(x).

K. Checklist Item Eleven – Number Portability

Has SWBT provided number portability, pursuant to section 271(c)(2)(B)(xi) of FTA96 and applicable rules promulgated by the Commission?

The Texas Commission finds that SWBT has satisfied the requirements of Checklist Item 11.

Section 271(c)(2)(B)(xi) states that, “until the date by which the Commission issues regulations pursuant to section 251 to require number portability, interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible,” shall be provided.⁴⁶⁵ The Act defines number portability as, “the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.”⁴⁶⁶

Because number portability is essential to meaningful competition, the Commission will look closely at any allegation that an ILEC is failing to meet obligations to provide number portability through interim measures pending deployment of a long-term number portability plan.⁴⁶⁷ The Commission must also be confident that an ILEC will meet its obligations under the

⁴⁶² T2A, Attach. 17, App. II at Sec. 94.

⁴⁶³ *Id.*

⁴⁶⁴ Dysart Aff., App. A-5, Tab 1, Attach. B, paras. 501-04.

⁴⁶⁵ 47 U.S.C. § 271(c)(2)(B)(xi).

⁴⁶⁶ 47 U.S.C § 153(3).

⁴⁶⁷ *Ameritech Michigan*, 12 F.C.C.R. at 20723, para. 341.

Commission's deployment schedule for long-term number portability.⁴⁶⁸ In the *Ameritech* opinion, the Commission directed future applicants to provide details concerning an implementation plan, including at a minimum:

The BOC's schedule for intra- and inter-company testing of a long-term number portability method, the current status of the switch request process, an identification of the particular switches for which the BOC is obligated to deploy number portability, the status of deployment in requested switches, and the schedule under which the BOC plans to provide commercial roll-out of a long-term number portability method in specified central offices in the relevant state.⁴⁶⁹

The Texas Commission made recommendations in Order No. 25 that were addressed in the collaborative process. Through the collaborative process SWBT continued to improve on its conversions or cut-overs and worked with CLECs on further implementation of LNP. SWBT has shown a commitment to providing compliant performance for INP and LNP.

Under the T2A, the Texas Commission adopted provisions on number portability that sufficiently outline the participants' responsibilities for conversions or cut-overs and transition from INP to PNP.⁴⁷⁰ The T2A outlines Location Routing Number – Permanent Number Portability (LRN-PNP) and specific requirements or guidelines in implementing the solution. The T2A provides that, "SWBT and CLEC shall implement number portability in an end office upon the written request of the other Party in accordance with FCC timelines."⁴⁷¹ The T2A outlines the methodology employed by LRN-PNP for various types of calls.⁴⁷² The T2A details the ordering process and the requirements for PNP when the cut-over process takes place.⁴⁷³ Additionally, the T2A provides for transition from INP to PNP with specific guidelines spelled out for ease of operation.⁴⁷⁴

Regarding cost recovery, the Commission has interpreted its competitive neutrality guidelines as prohibiting an ILEC from assessing all of the incremental costs of providing interim number portability on CLECs.⁴⁷⁵ SWBT's pricing for interim number portability is provided on nondiscriminatory terms in compliance with FCC rulings. Specifically, the T2A provides that, "SWBT shall discontinue charges, if any, for INP as of the day on which the NPAC SMS download of the ported number was sent by the NPAC."⁴⁷⁶

⁴⁶⁸ *Id.* at 20723, para. 342.

⁴⁶⁹ *Id.*

⁴⁷⁰ T2A, Attach. 14.

⁴⁷¹ *Id.* at Sec. 2.1.2.

⁴⁷² *Id.* at Sec. 2.2.2 – 2.2.5.

⁴⁷³ *Id.* at Sec. 2.4 – 3.1.5.

⁴⁷⁴ *Id.* at Sec. 3.2

⁴⁷⁵ First Number Portability Order, 11 F.C.C.R. at 8423.

⁴⁷⁶ T2A, Attach. 14, Sec. 3.2.4.

For PNP, the Commission has promulgated rules that allow ILEC to recover their long-term number portability costs in two federally tariffed charges. One is a monthly end-user charge that takes effect no earlier than February 1, 1999 and lasts for no longer than five years.⁴⁷⁷ The second, is an inter-carrier charge for query-services that ILECs provide other carriers.⁴⁷⁸ As SWBT has on file tariffs for these two charges, it appears that SWBT is in compliance with the pricing rules. In addition, the T2A provides that, "the parties agree that CLEC will not pay any charges billed by SWBT associated with queries, subject to true up, if any, as required by FCC rulings."⁴⁷⁹

SWBT has implemented LNP in 447 switches in Texas and provides LNP to CLECs under its approved interconnection agreements, including the T2A.⁴⁸⁰ The number of switches in which SWBT has implemented LNP represents 88% of its total access lines as of October 31, 1999.⁴⁸¹ This figure translates into over 402,000 access lines ported by SWBT in Texas through the end of October.⁴⁸² In addition, SWBT has indicated that by year-end it projected that 97% of its access lines in Texas will be equipped with LNP capabilities.⁴⁸³ As required, SWBT also offers interim number portability INP through Remote Call Forwarding (RCF), Direct Inward Dialing (DID) and Directory Number Routing Indexing (DNRI) in compliance with the Commission's rules.⁴⁸⁴ However, SWBT stated that it is currently converting all INP lines to LNP and expects existing INP lines to be fully converted to LNP by year-end.⁴⁸⁵

Commercial Performance

In addition to provisions in the T2A, the Texas Commission also established performance measures that capture various INP and LNP metrics. Under INP, the Texas Commission approved measures for average INP installation intervals, percent of INP I-reports within 30 days, and percent missed due dates. Under permanent number portability, the Texas Commission established measures including percent of LNP I-reports within 10 days, average delay days for SWBT missed due dates, average time out of service for LNP related troubles, and percent out of service greater than 60/90 minutes. Additionally, the Texas Commission established diagnostic measures capturing percent LNP only due dates within industry guidelines.

⁴⁷⁷ 47 C.F.R. § 52.33.

⁴⁷⁸ *Id.*

⁴⁷⁹ T2A, Attach. 14, Sec. 4.1.

⁴⁸⁰ Affidavit of Gary A. Fleming, Application of Southwestern Bell Telephone Company, App. A-2, Tab 5, para. 30 (January 10, 2000) (hereinafter "Fleming Aff.").

⁴⁸¹ *Id.*

⁴⁸² *Id.*

⁴⁸³ *Id.*

⁴⁸⁴ *Id.* at para. 36.

⁴⁸⁵ *Id.*

PM-100 measures the average time to facilitate the activation request in SWBT's network. The performances delivered to the CLECs by SWBT were at or close to parity for the 60-minute benchmark August through November.

PM-101 captures the number of LNP related conversions where the time required to facilitate the activation of the port in SWBT's network is less than 60 minutes, expressed as a percentage of total number of activations that took place during that month. The performance delivered by SWBT was well above the benchmark for August(99.1%). Although SWBT missed this measure in September and October, November data shows 99.8% compliance.

SWBT has shown that it has a legal obligation to provide INP and PNP in accordance with FCC rulings and implementation schedules. Through the establishment of performance measures and supporting affidavits, SWBT has demonstrated that it is actually providing nondiscriminatory access to INP and LNP functionalities. Therefore, the Texas Commission verifies that SWBT has satisfied the requirements of 271(c)(2)(B)(xi).

L. Checklist Item Twelve – Local Dialing Parity

Has SWBT provided nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3) of the FTA, pursuant to section 271(c)(2)(B)(xii) and applicable rules promulgated by the FCC?

The Texas Commission finds that SWBT has satisfied the requirements of Checklist Item 12.

Section 271(c)(2)(B)(xii) requires that SWBT provide nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3) of the FTA.⁴⁸⁶ Section 251(b)(3), in turn, imposes on all LECs the duty to provide to competing providers nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays.⁴⁸⁷ Under Section 3(15) of the FTA, dialing parity means that:

a person that is not an affiliate of a local exchange carrier is able to provide telecommunications services in such a manner that customers have the ability to route automatically, without the use of any access code, their telecommunications to the telecommunications services provider of the customer's designation from among 2 or more telecommunications services providers (including such local exchange carrier).⁴⁸⁸

⁴⁸⁶ 47 U.S.C. § 271(c)(2)(B)(xii).

⁴⁸⁷ 47 U.S.C. § 251(b)(3).

⁴⁸⁸ 47 U.S.C. § 153(15).

SWBT implemented the recommendations in Order No. 25 and incorporated those recommendations into binding language in the T2A. In addition, SWBT's intraLATA equal access implementation plan was approved by the Texas Commission on March 25, 1999.⁴⁸⁹ The Texas Commission ordered SWBT to begin customer notice and education immediately, and to implement intraLATA dialing parity on or before May 7, 1999, in accordance with FCC requirements.⁴⁹⁰ SWBT is therefore legally obligated to provide dialing parity.

SWBT has incorporated this legal obligation by including the appropriate language in the T2A. The T2A provides, "After the implementation of intraLATA Dialing Parity, intraLATA toll calls from CLEC ULS Ports will be routed to the end user intraLATA Primary Interexchange Carrier (PIC) choice. When an interLATA toll call is initiated from an ULS port it will be routed to the end user interLATA PIC choice."⁴⁹¹ Additionally, the T2A specifically sets out billing arrangements for exchange traffic.⁴⁹² The T2A does not require CLECs to use access codes or additional digits to complete calls.⁴⁹³ Furthermore, because CLEC switches connect to the trunk side of SWBT switches in the same manner as all LECs, including SWBT, no differences in dialing requirements are present.⁴⁹⁴ Finally, CLECs are able to provide telecommunications services in such a manner that customers are able to route automatically calls to the telecommunications services provider of the customer's designation.⁴⁹⁵

SWBT has a legal obligation to provide dialing parity. SWBT has shown it is actually providing this obligation through application affidavits and language in the T2A. Therefore, the Texas Commission verifies that SWBT has satisfied the requirements of 271(c)(2)(B)(xii).

M. Checklist Item Thirteen – Reciprocal Compensation

Has SWBT provided reciprocal compensation arrangements in accordance with the requirements of section 252(d)(2) of FTA96 pursuant to section 271(c)(2)(B)(xiii), and applicable rules promulgated by the Commission?

The Texas Commission finds that SWBT has satisfied the requirements of checklist item 13.

Section 271(c)(2)(B)(xiii) of the Act requires SWBT to provide reciprocal compensation arrangements in accordance with the requirements of § 252(d)(2). Section 252(d)(2)(A) states in

⁴⁸⁹ PUCT Project No. 17000, *Petition of Southwestern Bell Telephone Company for Approval of IntraLATA Equal Access Plan Pursuant to P.U.C. Subst. R. 23.103*.

⁴⁹⁰ *Id.*

⁴⁹¹ T2A, Attach. 6, App. – Pricing, UNE, Sec. 5.2.2.2.1.2.

⁴⁹² *Id.* at Sec. 5.2.2.2.1.2.1 – 5.2.2.2.1.3.

⁴⁹³ Deere Aff., App. A-2, Tab 3 para. 230.

⁴⁹⁴ *Id.*

⁴⁹⁵ *Id.*

part, a State commission shall not consider the terms and conditions for reciprocal compensation to be just and reasonable unless (i) such terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier; and (ii) such terms and conditions determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls.

The Commission has stated that to meet this checklist item a BOC must show that it (1) has reciprocal compensation arrangements in accordance with section 252(d)(2) in place, and (2) is making all required payments in a timely fashion.⁴⁹⁶ In addition, the BOC must provide generally available reciprocal compensation terms and conditions that determine costs based on a reasonable approximation of the additional costs of terminating the other carrier's calls.⁴⁹⁷

When the Commission evaluated BellSouth's application for entry into the interLATA market in Louisiana, it concluded that BellSouth met its burden of demonstrating that it had made appropriate reciprocal compensation arrangements generally available and was making timely payments.⁴⁹⁸ Specifically, the Commission found: (1) BellSouth demonstrated it has a concrete legal obligation to pay reciprocal compensation in the form of the SGAT with reciprocal compensation provisions; (2) BellSouth demonstrated that the charges for transport and termination of calls on its network were consistent with the Louisiana Commission's Pricing Order; and (3) BellSouth provided evidence that it made required reciprocal compensation payments in a timely fashion, with the exception of ISP traffic.⁴⁹⁹

The Texas Commission concludes that SWBT has shown that it is providing reciprocal compensation arrangements in accordance with the FTA and applicable Commission rules and Texas Commission decisions. SWBT's commitments made during the collaborative process, in several interconnection agreements, and in the T2A illustrate legal obligations which, when fulfilled, satisfy the requirements of checklist item 13. SWBT has interconnection agreements with CLECs that contain reciprocal compensation rates for both tandem-office based and end-office-based transport and termination of traffic. These rates are cost-based and established by the Texas Commission using the TELRIC methodology.⁵⁰⁰

⁴⁹⁶ *BellSouth Louisiana II*, 13 F.C.C.R. at 20773, para. 299.

⁴⁹⁷ 47 U.S.C. § 252(d)(2)(A).

⁴⁹⁸ *BellSouth Louisiana II*, 13 F.C.C.R. at 20774, para. 300.

⁴⁹⁹ *Id.* at paras. 300-02. The FCC did not consider BellSouth's failure to make reciprocal compensation payments for ISP traffic because neither the FCC nor the Louisiana Commission had ruled on the treatment of ISP traffic at that time. *Id.* However, the FCC concluded that parties may have agreed to reciprocal compensation for ISP-bound traffic or state commissions may have imposed reciprocal compensation obligations regarding this traffic. In these cases, the FCC concluded that in the absence of a federal rule regarding the appropriate compensation for ISP-bound traffic, parties should be bound by their existing interconnection agreements as interpreted by state commissions. *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 Inter-Carrier Compensation for ISP-Bound Traffic*, Docket Nos. 96-98, 99-68, Declaratory Ruling and Notice of Proposed Rulemaking, 14 F.C.C.R. 3689, 3690 (1999) (*Local Competition Declaratory Ruling*). See also *Bell Atlantic New York*, CC Docket No. 99-295, para. 377 (1999).

⁵⁰⁰ AT&T Agreement, Attach. 12.

Relating to record exchange, the Texas Commission made a specific recommendation in its Order No. 25.⁵⁰¹ In that Order, the Texas Commission recommended that in order to comply with checklist item 13, appropriate traffic records must be exchanged between SWBT and the CLECs to facilitate the payment of mutual compensation for calls.⁵⁰² Later, in its Final Staff Status Report, the Texas Commission clarified this recommendation by specifically requiring SWBT to work with the CLECs to reach an interim solution on the issue of compensation for calls involving the use of UNEs or ported numbers.⁵⁰³

The Texas Commission's recommendations were satisfied when SWBT filed with the Texas Commission interim agreements with AT&T, MCI Worldcom and Sage Telecom on the issue of compensation for calls that originate from third parties and terminate on a CLEC's unbundled switch purchased from SWBT. Under the interim compensation mechanism, the compensation for third party UNE termination traffic will be based on the average revenue per month per access line and CLEC switch port count.⁵⁰⁴ The interim mechanism is reflected in the T2A and will remain in effect until a permanent industry solution is found.⁵⁰⁵ SWBT also agreed to work with the industry and the Texas Commission staff to identify a permanent solution acceptable to all companies. Furthermore, SWBT agreed to make the same interim arrangements available to any other CLEC using unbundled switch ports.

The third recommendation set out in the Texas Commission's Order No. 25 related to compensation for ELCS traffic.⁵⁰⁶ The Texas Commission stated that compensation for ELCS traffic must be consistent with the Texas Commission's decision in the mega-arbitration.⁵⁰⁷ Further, EAS traffic, including ELCS traffic, must be subject to the lesser of the cost-based interconnection rates or the interconnection rates in effect between SWBT and other incumbent LECs.⁵⁰⁸ This recommendation was later clarified in the Final Staff Status Report.⁵⁰⁹ In that report, the Texas Commission identified specific actions SWBT needed to take to comply with checklist item 13.⁵¹⁰ The Report called on SWBT to, in addition to applying local interconnection rates to all traffic within the mandatory EAS traffic, including ELCS traffic, to offer CLECs the option to enter into interconnection arrangements similar to the arrangements it has with other ILECs for traffic within mandatory EAS including ELCS calling areas.⁵¹¹

⁵⁰¹ Order No. 25, App. I, p. 10.

⁵⁰² *Id.*

⁵⁰³ Final Staff Status Report at 102.

⁵⁰⁴ T2A, Attach. 12 at para. 10.2.

⁵⁰⁵ *Id.*

⁵⁰⁶ Order No. 25, App. I at 10.

⁵⁰⁷ *Id.*

⁵⁰⁸ *Id.*

⁵⁰⁹ Final Staff Status Report at 103-04

⁵¹⁰ *Id.*

⁵¹¹ *Id.*

Additionally, SWBT was to file a report indicating compliance with this recommendation with the Texas Commission.⁵¹²

Resolution of these recommendations began with SWBT's filing of its reciprocal compensation agreements with other ILECs for EAS including ELCS traffic. In the MOU, SWBT committed to offer CLECs the option to enter into interconnection arrangements similar to those SWBT had with other ILECs for EAS including ELCS traffic. The T2A also contains provisions for compensation for ELCS traffic. Under these provisions, SWBT agreed to grant a CLEC the option to enter into interconnection arrangements similar to the arrangements SWBT has with other ILECs for optional or mandatory, one-way or two way EAS, including ELCS traffic or the option to exchange traffic at cost based interconnection rates determined by the Texas Commission in prior arbitrations.

Regarding compensation for ISP traffic, per the Texas Commission's recommendation in Order No. 25, SWBT agreed to abide by the Texas Commission's interpretation of existing interconnection agreements that ISP traffic should be treated as local and therefore is subject to the reciprocal compensation provisions of FTA 96.⁵¹³ Additionally, SWBT agreed to apply the Texas Commission's decision on ISP traffic to any similarly situated CLEC or ILEC.⁵¹⁴

The T2A presents three options for a CLEC: (1) AT&T Contract Option; (2) Long-Term Local Bill and Keep Option; and (3) Negotiate/Arbitrate Option.⁵¹⁵ With regard to provisions for the exchange of appropriate traffic records to facilitate payment: if a CLEC opts to adopt AT&T's contract or to negotiate or arbitrate its own provisions, then the Percent Local Usage (PLU) method may be used until the Texas Commission approves an alternative approach for the exchange of billing records; and if a CLEC chooses to use the long term bill and keep option, then the companies will exchange 92-type originating records until either the Texas Commission or the Commission requires an alternative approach for the exchange of usage information by all industry participants.⁵¹⁶ Existing reciprocal compensation agreements contain provisions for the exchange of billing records.

Based on the evidence in the record, the Texas Commission verifies that SWBT has satisfied the requirements of 271(c)(2)(B)(i).

⁵¹² *Id.*

⁵¹³ Order No. 25, App. I at 10. SWBT reserved its right to appeal the Texas Commission's decision that ISP traffic should be treated as local traffic. T2A, Attach. 12 at para. 1.0. *See also* Auinbauh Aff., App. A-3, Tab 1, para. 111.

⁵¹⁴ Hr. at 1633 and 1636 (April 24, 1998); Auinbauh Aff. II at 18; Collaborative Session Tr. at 1315-16 (September 17, 1998).

⁵¹⁵ T2A, Attach. 12, Sec. 1.2.1, 1.2.2, 1.2.3; Auinbauh Aff., App. A-3, Tab 1, paras. 114, 119, 120.

⁵¹⁶ *Id.* at paras. 7.1, 7.6